

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of

FODOR et al.

Appln. No. 09/585,659

Filed: June 2, 2000

FOR: PRODUCTS FOR DETECTING NUCLEIC ACIDS



Group Art Unit: 1655

Examiner: S. Zitomer

* * *

May 14, 2001

REPLACEMENT INFORMATION DISCLOSURE STATEMENT

Hon. Commissioner for Patents
Washington, D.C. 20231

Sir:

This information disclosure statement (IDS) is being submitted to replace the three IDS filed June 2, 2000, July 20, 2000, and September 21, 2000. Thus, the Examiner is respectfully requested to use the attached Form PTO-1449 in lieu of those previously submitted. The references that Applicants would like considered in this application are listed on the Form PTO-1449 which is attached.

Contingent IDS Request Under 37 CFR § 1.97(c): Should a first Office Action on the merits have been mailed before today, please consider this a request under Rule 97(c) to consider this IDS in lieu of certification and charge the Rule 17(p) Official fee to our Deposit Account No. 03-3975 under Order No. 71180/254814 for which purpose this paper is submitted in duplicate.

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supporting information) entitled “Request for Declaration of Interference, 37 C.F.R. §1.608” in both interferences. The initial response of Senior party Patentee is set out in papers (with supporting information) entitled “Fodor’s Opposition to Brown’s Rule 608(b) Request” in both interferences.

Further, US 5,744,305 and US 5,800,992 are the subject of litigation (*Affymetrix, Inc. v. Hyseq, Inc.*, US District Court for the Northern District of California, San Francisco Division, Civil Action No. C98-03192 FMS, and *Affymetrix. v. Synteni, Inc. and Incyte Pharmaceuticals, Inc.*, US District Court for the Northern District of California, San Francisco, Case No. C98-4508 FMS (MEJ)). In the course of these proceedings, allegations of invalidity over prior art, lack of enablement, lack of support and inequitable conduct (relating to duty of candor, content of declarations under 37 CFR § 1.132, and arguments made during prosecution) have been raised. These allegations are denied. In a more recent lawsuit with Incyte Genomics (*Incyte Genomics Inc. v. Affymetrix*, U.S. District Court, Northern district of California, San Francisco division and is Case No. C 00-3210 JF.), Affymetrix counterclaimed for patent infringement under US 5,871,928 ('928) and US 6,040,193. The '928 patent is in a related family to the present application. Incyte has filed their “Initial Disclosure of Prior Art” and the references cited therein have been included into the current IDS.

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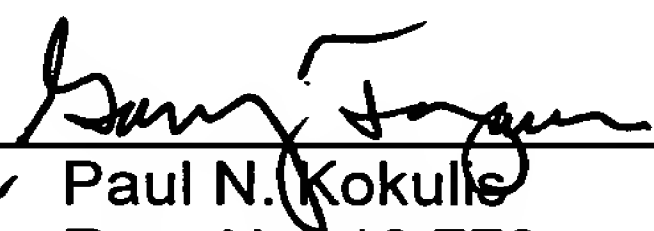
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Respectfully submitted,

Intellectual Property Group of
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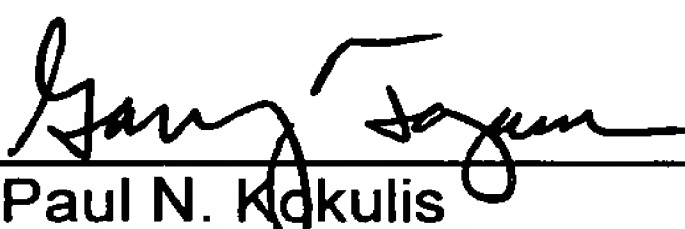
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